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In re Application of
GREGORY, Otto J.
Application No.: 09/890,011
PCT No.: PCT/US00/01613
Int. Filing Date: 25 January 2000
Priority Date: 26 January 1999
Attorney's Docket No.: 4628
For: ACTIVE STRAIN GAGES FOR
EARTHQUAKE DAMAGE
ASSESSMENT

DECISION

ON REQUEST UNDER

37 CFR 1.497(d)

This is a decision on in response to applicant's response to the Notification of Abandonment, filed on 17 November 2003, by facsimile.

BACKGROUND

On 25 January 2000, applicant filed international application PCT/US00/01613, which claimed a priority date of 26 January 1999. On 23 August 2000, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 26 July 2001.

On 25 July 2001, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 September 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 03 January 2002, applicant filed "Completion of Filing Requirements," accompanied by, *inter alia*, a declaration and "Request To Add To Original Erroneously Named Inventor In Declaration (37 CFR 1.48(a))."

On 17 May 2002, the Office mailed Decision On Request Under 37 CFR 1.497(d).

On 10 November 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Decision mailed 17 May 2002.

On 17 November 2003, applicant submitted the instant response accompanied by a date stamped postcard receipt and a copy of the submission applicant claims was earlier submitted.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point. Applicant has furnished a copy of the postcard receipt identifying the application and the response and date stamped 22 July 2002. Applicant indicates that the renewed response that accompanies is a true copy of the 22 July 2002 response. The renewed response is accepted as having a receipt date of 22 July 2002. The certificate of mailing indicates the submission was deposited with the USPS on 16 July 2002.

The inventor in the international application is Otto J. Gregory. Applicant filed this request to add Mr. William B. Euler as an inventor in this application.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied. Item (3) has now been satisfied.

CONCLUSION

For the above reasons, applicant's petition to withdraw the holding of abandonment and request under 37 CFR 1.497(d) are GRANTED.

The Notification of Abandonment mailed 10 November 2003 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 03 January 2002.



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